

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

TIM RAY,

Plaintiff,

v.

Case No. 11-C-945

DEDICATED SYSTEMS,

Defendant.

ORDER

Plaintiff Tim Ray has filed an action in this Court. Ordinarily, a plaintiff must pay a statutory filing fee of \$350 to bring an action in federal court. 28 U.S.C. § 1914(a). Plaintiff, however, has requested leave to proceed *in forma pauperis*, pursuant to 28 U.S.C. § 1915.

Section 1915 is meant to ensure indigent litigants meaningful access to federal courts. *Nietzke v. Williams*, 490 U.S. 319, 324 (1989). An indigent plaintiff may commence a federal court action, without paying required costs and fees, upon submission of an affidavit asserting inability “to pay such fees or give security therefor” and stating “the nature of the action, defense or appeal and affiant’s belief that the person is entitled to redress.” 28 U.S.C. § 1915(a)(1). Plaintiff filed the required affidavit of indigence. Upon review of that affidavit, it appears that plaintiff could not pay the \$350 filing fee.

Section 1915 also requires courts to “screen” complaints to ensure that indigent plaintiffs do not abuse the ability to bring cases without paying a filing fee. Plaintiff alleges that after he had back surgery his employer, a trucking company, refused to hire him back despite a favorable pre-

surgery employment relationship. Although Plaintiff does not cite any statutes (nor need he), it is presumed that he is bringing a claim under the Americans With Disabilities Act (ADA), alleging that his employer regarded him as being unable to perform a broad class of jobs. *See, e.g., Kotwica v. Rose Packing Co., Inc.*, 637 F.3d 744, 749 (7th Cir. 2011). At this early stage of the proceedings, I cannot say that such a claim lacks merit. It will therefore be allowed to proceed.

NOW, THEREFORE, IT IS HEREBY ORDERED that plaintiff's request to proceed *in forma pauperis* is granted and the filing fee is waived.

IT IS FURTHER ORDERED, pursuant to Fed. R. Civ. P. 4(c)(2), that the U.S. Marshals Service shall serve a copy of the complaint, a waiver of service form and/or the summons, and this order upon defendants. Plaintiff is advised that Congress requires the U.S. Marshals Service to charge for making or attempting such service. 28 U.S.C. § 1921(b). The current fee for waiver-of-service packages is \$8 per item. The full fee schedule is provided in Revision to United States Marshals Service Fees for Services, 65 Fed. Reg. 47,859, at 47,862 (Aug. 4, 2000) (to be codified at 28 C.F.R. §§ 0.114(a)(2), (a)(3)). Although Congress requires the court to order service by the U.S. Marshals Service, the U.S. Marshals Service fees are not considered court fees, and Congress has not made any provision for these fees to be waived by the court.

Plaintiff must provide defendants or their counsel with copies of all future motions or papers filed by the plaintiff in this action.

Dated this 13th day of October, 2011.

s/ William C. Griesbach
William C. Griesbach
United States District Judge